

Montana Department of Natural Resources and Conservation
Water Resources Division
Water Rights Bureau

ENVIRONMENTAL ASSESSMENT
For Routine Actions with Limited Environmental Impact

Part I. Proposed Action Description

1. Applicant/Contact name and address:

Applicants:

Tyler Cobb of the COBB T P JR INTER VIVOS TRUST
PO BOX 685
TWIN BRIDGES MT, 59754

2. Type of action: Application to Change an Existing Irrigation Water Right No. 41D 30122404.
3. Water source name: Big Hole River
4. Locations affected by project: The Applicant proposes to add three points of diversion (POD) in the SWSESW, SENESW, NENWSE, of Section 31, T03 S, R06 W, Madison County, and clarify the place of use for Statement of Claim 41D 196337-00. The applicant requests to clarify the place of use (POU) to 25 acres in the W2NWSE & E2SW Sec. 31, T03 S, R06 W, Madison Co.
- See Figure 1 on the next page for an overview map.

IR.2.E Historic Use Map

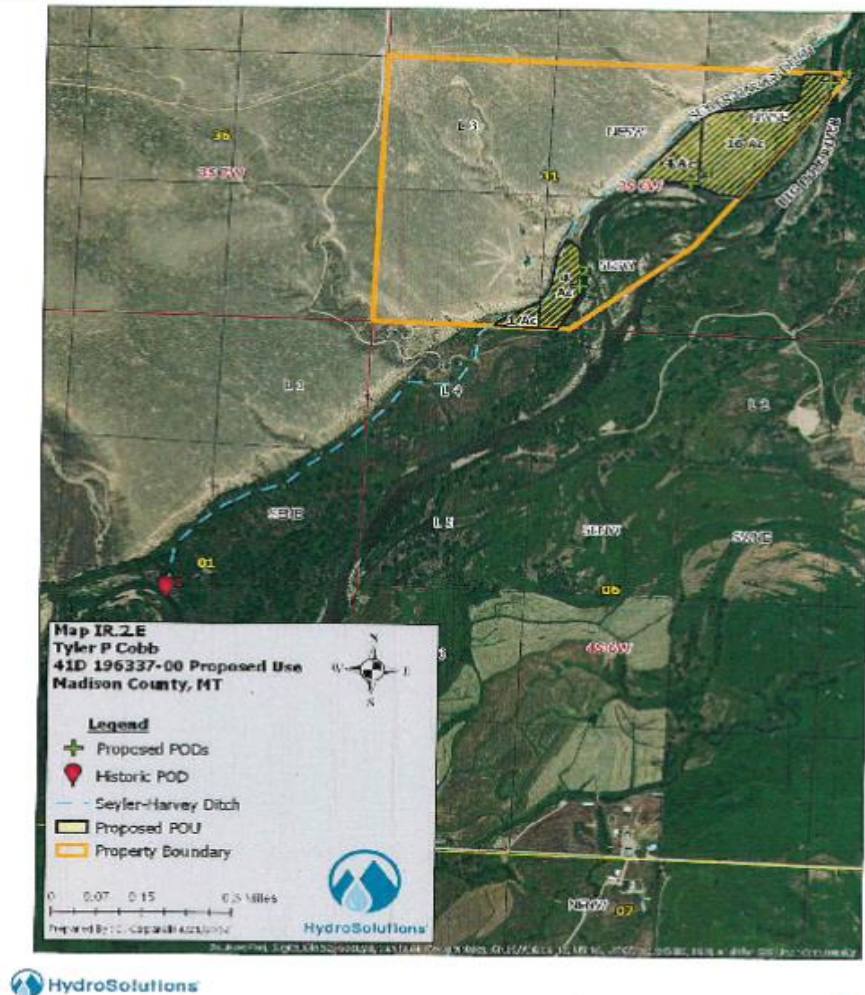


Figure 1: Map of the proposed change.

5. Narrative summary of the proposed project, purpose, action to be taken, and benefits:

The Applicant proposes to add three points of diversion (POD) in the SWSESW, SENESW, NENWSE, of Section 31, T03 S, R06 W, Madison County, and clarify the place of use for Statement of Claim 41D 196337-00. The applicant requests to clarify the place of use (POU) to 25 acres, due to the dynamic nature of the river channel changing up access and irrigable land. The method of irrigation will remain as flood irrigation. The historical point of diversion is remaining. No changes are being made to storage or purpose.

The Department shall issue a change authorization if the Applicant proves the criteria in §85-2-402, MCA, are met.

6. Agencies consulted during preparation of the Environmental Assessment:
- Montana Department of Fish, Wildlife & Parks (FWP) – FISHMT
 - <http://fwp.mt.gov/fish/>
 - Montana Department of Environmental Quality (DEQ) – Clean Water Act Information Center (CWAIC)
 - <http://deq.mt.gov/wqinfo/CWAIC/default.mcp>
 - Montana National Heritage Program (MTNHP) – Species of Concern
 - <http://mtnhp.org/SpeciesOfConcern>
 - U.S. Fish & Wildlife Service (USFWS) – National Wetlands Inventory Wetlands Mapper
 - <http://www.fws.gov/wetlands/Data/Mapper.html>
 - Natural Resource Conservation Service (NRCS) – Web Soil Survey (WSS)
 - <http://websoilsurvey.sc.egov.usda.gov/App/HomePage.htm>

Part II. Environmental Review

1. Environmental Impact Checklist:

PHYSICAL ENVIRONMENT

WATER QUANTITY, QUALITY AND DISTRIBUTION

Water quantity - *Assess whether the source of supply is identified as a chronically or periodically dewatered stream by FWP. Assess whether the proposed use will worsen the already dewatered condition.*

Determination: No significant impact identified.

As determined by a search of FISHMT conducted on February 11, 2020, the Big Hole River is not listed as chronically or periodically dewatered by FWP.

This change will not significantly impact conditions from the Big Hole River, water will be diverted and conveyed in an amount that does not exceed historical practices and in an operation pattern that is similar to the historical one.

Water quality - *Assess whether the stream is listed as water quality impaired or threatened by DEQ, and whether the proposed project will affect water quality.*

Determination: No significant impact identified.

According to a search of the CWAIC website conducted on February 11, 2020, the Big Hole River is not included on the 303(d) list. The Big Hole River is listed as fully supporting Agricultural, but not fully supporting Aquatic Life, Drinking Water, and Primary Contact Recreation.

This change will not have a significant impact on the water quality because water will be diverted and conveyed in an amount that does not exceed historical practices and in an operation pattern that is similar to the historical one.

Groundwater - *Assess if the proposed project impacts ground water quality or supply. If this is a groundwater appropriation, assess if it could impact adjacent surface water flows.*

Determination: No significant impact identified.

The right being changed is from surface water. The place of use is being clarified, but this will not have a significant impact on surface water flows because water will be diverted and conveyed in an amount that does not exceed historical practices and in an operation pattern that is similar to the historical one.

The change should not significantly affect groundwater quality or supply.

DIVERSION WORKS - *Assess whether the means of diversion, construction and operation of the appropriation works of the proposed project will impact any of the following: channel impacts, flow modifications, barriers, riparian areas, dams, well construction.*

Determination: No significant impact identified.

Water can be diverted at the historical head gate and from the three new points of diversion. As described in the application and subsequent correspondence, the three new points of diversion will take over the main diversions and the historic POD will remain in case of the need for emergency use.

Water will be diverted and conveyed in an amount that does not exceed historical practices and in an operation pattern that is similar to the historical one, so no significant impacts to channels, flows, barriers, or riparian areas are anticipated.

UNIQUE, ENDANGERED, FRAGILE OR LIMITED ENVIRONMENTAL RESOURCES

Endangered and threatened species - *Assess whether the proposed project will impact any threatened or endangered fish, wildlife, plants or aquatic species or any “species of special concern,” or create a barrier to the migration or movement of fish or wildlife. For groundwater, assess whether the proposed project, including impacts on adjacent surface flows, would impact any threatened or endangered species or “species of special concern.”*

Determination: No significant impact identified.

The Montana National Heritage Program’s website was queried on February 11, 2020, for species in Township 3 South, Range 6 West.

The MTNHP website identified the following animal species for both legal land descriptions:

- Six (6) Animal Species of Concern: Townsend’s Big-eared Bat, Mountain Plover, Bobolink, Great Blue Heron, Brewer's Sparrow, McCown's Longspur, and Arctic Grayling.

- Zero (0) Animal Potential Species of Concern.
- One (1) Animal Special Status Species: Bald Eagle.

The MTNHP website identified the following plant species:

- Two (2) Plant Species of Concern: Annual Indian Paintbrush and Slender Indian Paintbrush.
- Zero (0) Plant Potential Species of Concern.
- Zero (0) Plant Special Status Species.

The proposed project is to add three points of diversion and clarify the place of use of irrigation water, but the same general area will continue under agricultural production, so this project should not significantly impact any of the species listed here.

Wetlands - *Consult and assess whether the apparent wetland is a functional wetland (according to COE definitions), and whether the wetland resource would be impacted.*

Determination: No significant impact identified.

A February 11, 2020, search of the USFWS Wetlands Mapper did not identify any wetlands within the project area.

Ponds - *For ponds, consult and assess whether existing wildlife, waterfowl, or fisheries resources would be impacted.*

Determination: Not applicable.

This project does not involve any ponds.

GEOLOGY/SOIL QUALITY, STABILITY AND MOISTURE - *Assess whether there will be degradation of soil quality, alteration of soil stability, or moisture content. Assess whether the soils are heavy in salts that could cause saline seep.*

Determination: No significant impact.

The same amount water that was historically diverted from these surface water sources will be diverted. The diversion operation pattern will be similar to the historical one, so this project should not affect soil characteristics significantly. A February 11, 2020, search of the NRCS WSS site did not identify any saline seeps in the area.

VEGETATION COVER, QUANTITY AND QUALITY/NOXIOUS WEEDS - *Assess impacts to existing vegetative cover. Assess whether the proposed project would result in the establishment or spread of noxious weeds.*

Determination: No significant impact identified.

The same amount of water that was historically diverted from the surface water sources will continue to be diverted and conveyed to the same general area, although some acreage will be clarified. The diversion operation pattern will be similar to the historical one, so this project

should not affect vegetative characteristics along the riparian corridor significantly. Under Montana law, property owners are responsible for noxious weed control on their property.

AIR QUALITY - *Assess whether there will be a deterioration of air quality or adverse effects on vegetation due to increased air pollutants.*

Determination: No impact identified.

This project will not impact air quality.

HISTORICAL AND ARCHEOLOGICAL SITES - *Assess whether there will be degradation of unique archeological or historical sites in the vicinity of the proposed project if it is on State or Federal Lands. If it is not on State or Federal Lands simply state NA-project not located on State or Federal Lands.*

Determination: Not applicable.

The project is not located on State or Federal Lands. Furthermore, the Applicant made no mention of significant historical or archeological sites on the property.

DEMANDS ON ENVIRONMENTAL RESOURCES OF LAND, WATER, AND ENERGY - *Assess any other impacts on environmental resources of land, water and energy not already addressed.*

Determination: No impact identified.

No other demands on environmental resources of land, water, and energy have been identified.

HUMAN ENVIRONMENT

LOCALLY ADOPTED ENVIRONMENTAL PLANS AND GOALS - *Assess whether the proposed project is inconsistent with any locally adopted environmental plans and goals.*

Determination: No significant impact identified.

The Applicant's goal is to change the point of diversion and to clarify the place of use of their existing water right to incorporate upgrades to irrigation infrastructure and provide water to historically irrigated acreage. This proposal is consistent with the goal of efficiently making use of existing water supplies.

ACCESS TO AND QUALITY OF RECREATIONAL AND WILDERNESS ACTIVITIES - *Assess whether the proposed project will impact access to or the quality of recreational and wilderness activities.*

Determination: No impact identified.

The project area is located on private property and will not affect access to recreational activities or the quality of recreational and wilderness activities.

HUMAN HEALTH - Assess whether the proposed project impacts on human health.

Determination: No impact identified.

This project will not impact human health.

PRIVATE PROPERTY - Assess whether there are any government regulatory impacts on private property rights.

Yes___ No X If yes, analyze any alternatives considered that could reduce, minimize, or eliminate the regulation of private property rights.

Determination: No impact identified.

The project does not impact government regulations on private property rights.

OTHER HUMAN ENVIRONMENTAL ISSUES - For routine actions of limited environmental impact, the following may be addressed in a checklist fashion.

Impacts on:

- (a) Cultural uniqueness and diversity? No impacts identified.
- (b) Local and state tax base and tax revenues? No significant impacts identified.
- (c) Existing land uses? No significant impacts identified.
- (d) Quantity and distribution of employment? No significant impacts identified.
- (e) Distribution and density of population and housing? No impacts identified.
- (f) Demands for government services? No significant impacts identified.
- (g) Industrial and commercial activity? No significant impacts identified.
- (h) Utilities? No significant impacts identified.
- (i) Transportation? No impacts identified.
- (j) Safety? No impacts identified.
- (k) Other appropriate social and economic circumstances? No impacts identified.

2. *Secondary and cumulative impacts on the physical environment and human population:*

Secondary Impacts: No secondary impacts have been identified.

Cumulative Impacts: No cumulative impacts have been identified.

3. ***Describe any mitigation/stipulation measures:*** None.
4. ***Description and analysis of reasonable alternatives to the proposed action, including the no action alternative, if an alternative is reasonably available and prudent to consider:*** The Applicant may not have any reasonable alternatives to the current process because changing the place of use of a water right requires an Authorization from the Department.

The no-action alternative would be to not to make any changes to their irrigation infrastructure.

PART III. Conclusion

1. ***Preferred Alternative:*** The preferred alternative is to grant the change application if the Applicant can prove that the criteria in §85-2-402, MCA, are met.
2. ***Comments and Responses:*** None.
3. ***Finding:***
*Yes*___ *No* *X* *Based on the significance criteria evaluated in this EA, is an EIS required?*

If an EIS is not required, explain why the EA is the appropriate level of analysis for this proposed action: The EA is the appropriate level of analysis because the proposed project is to change the place of use of irrigation water rights. None of the identified impacts for any of the alternatives is significant as defined in ARM 36.2.524. No significant adverse effects are anticipated.

Name of person(s) responsible for preparation of EA:

Name: Michael Everett
Title: Water Resource Specialist
Date: February 11, 2020